

PATENT APPLICATION *EPH*IN THE U.S. PATENT AND TRADEMARK OFFICE *AF*

Applicant(s): Gianfranco D'AMATO
Title: COLLAPSIBLE CONTAINER

Serial No. : 10/630 378 Group: 3727
Confirmation No.: 8950
Filed : July 30, 2003 Examiner: Grosso
International Application No.: -
International Filing Date : -
Atty. Docket No.: GKS 397

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

FIRST CLASS MAILING CERTIFICATE

Sir:

I hereby certify that this correspondence is being deposited with the United States Postal Service under 37 CFR 1.8 as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on October 3, 2006.

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Correspondence: Letter Transmitting Appeal Brief Fee dated
October 3, 2006 including enclosures listed thereon

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LETTER TRANSMITTING APPEAL BRIEF FEE

Sir:

Enclosed is Appellant's check in the sum of \$500.00, representing payment of the Appeal Brief fee. The Commissioner is hereby authorized to charge any additional fee which may be required by this paper, or to credit any overpayment to Deposit Account No. 06-1382. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

IN DUPLICATE

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Encl: Appellant's Brief on Appeal Under 37 CFR \$41.37
Check (\$500.00)

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APPELLANT'S BRIEF ON APPEAL UNDER 37 CFR §41.37

Sir:

This is an appeal from 37 CFR §41.37 to the Board of Patent Appeals and interferences of the United States Patent and Trademark Office from the final rejection of claims in the above-identified application.

One copy of Appellant's Brief is filed herewith, together with the requisite fee.

(i) REAL PARTY IN INTEREST

The real party in interest for this application is SEDA S.P.A. having a place of business in Italy, by virtue of an Assignment from the inventor as recorded at the PTO on September 8, 2003 at Reel 014838, Frame 0420.

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(ii) RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision pending appeal.

(iii) STATUS OF CLAIMS

The above-identified patent application as amended contains 30 claims, namely Claims 1, 2, 4-10, 12-20, 22-27 and 30-35 which have been finally rejected and are being appealed.

Claims 3, 11, 21, 28, 29, 36 and 37 have been cancelled.

(iv) STATUS OF AMENDMENTS

The claims were finally rejected in an Office Action mailed May 25, 2006.

On June 13, 2006, Appellant filed a Response which amended the specification and a drawing.

The Examiner issued an Advisory Office Action dated July 13, 2006 maintaining the final rejection of the claims, but indicating that the proposed amendment of June 13, 2006 would be entered upon filing of an appeal.

On August 16, 2006, Appellant filed a second Response amended Claim 1 to include the features of cancelled Claim 29 dependent therefrom.

The Examiner issued a second Advisory Office Action dated September 1, 2006 maintaining the final rejection of the claims, but indicating that the proposed amendment of August 16, 2006 would be entered upon the filing of an appeal.

Accordingly, Appellant hereby respectfully requests entry of the amendments to the specification and drawing from the Response filed June 13, 2006 and the amendment to Claim 1 from the Response filed August 16, 2006. The claims in the attached Appendix (viii) incorporate the approved August 16, 2006 amendment.

(v) SUMMARY OF THE INVENTION

Appellant's invention is directed to a collapsible container for receiving food.

Appellant's Claim 1 recites a collapsible container 1 having a flexible wall 6 with at least two transparent layers 3-5 as disclosed at paragraph [0069], lines 5-8 of Appellant's specification. The container 1 comprises a withdrawal opening 7 with a bent opening edge 8 and is closed at its end opposite the withdrawal opening as disclosed at paragraph [0059]. Claim 1 recites the container being rolled from a two dimensional blank 10 which is connected with itself in an overlap region 12 extending the longitudinal direction of the container by at least one of heat and pressure as disclosed at paragraph [0061]. Claim 1 further recites that the container is formed from a transparent and fluid tight material as disclosed at paragraph [0062], lines 1-3 which can be shaped for bending the opening edge as disclosed at paragraph [0064], lines 1-4 and is dimensionally stable after the shaping as disclosed at paragraph [0012], lines 1-3. Finally, Claim 1 recites that the container and the material are stable at least within the temperature range of -50°C to +120 °C as disclosed at paragraph [0042], lines 1-6.

Claim 2 recites that the unshaped blank is two-dimensional as recited in paragraph [0061], lines 1-2 and that the transparency of the container enables filling thereof to be monitored as disclosed at paragraph [0075], lines 6-10 of Appellant's specification.

Claim 4 recites that two or more of the layers are joined in a permanent perfect junction as disclosed at paragraph [0069], lines 4-5 of Appellant's specification.

Claim 5 recites that three layers are provided, each of which is transparent and Claim 6 recites that a central one of the layers is an elastic yet permanently ductile layer, and after shaping is dimensionally stable, as disclosed at paragraph [0069], lines 5-8.

Claim 7 recites that at least an inner one of the layers is liquid tight and a further one of the layers is gas tight as disclosed at paragraph [0069], lines 8-9 of Appellant's specification.

Claim 8 recites that at least one of an outer and an inner one of the layers is formed as a connection layer at least in the overlap region as disclosed at paragraph [0069], lines 9-13.

Claim 9 recites that edges of the layers are fluid tight as disclosed at paragraph [0063] of Appellant's specification.

Claim 10 recites that at least one of the layers is provided with a print as disclosed at paragraph [0070], lines 1-5.

Claim 12 recites that the layers comprise a central layer made of polyester and outer and inner layers that comprise coats of lacquer applied to the central layer as disclosed at paragraph [0069], lines 16-20.

Claim 13 recites that the layers comprise an outer layer of polypropylene, an inner layer of polypropylene, and a central layer of polyester arranged therebetween as disclosed at paragraph [0069], lines 14-16.

Claim 14 recites that the layers comprise an outer layer, an inner layer and a central layer therebetween as disclosed at paragraph [0069], lines 5-13 and recites a print provided on at least one of an inner side of the outer layer, an outer side or an inner side of the central layer, and an outer side of the inner layer as disclosed at paragraph [0070], lines 2-5 of Appellant's specification.

Claim 15 recites that for the generation of heat for the connection in the overlap region, at least one of the layers is ultrasonic absorbent as disclosed at paragraph [0028].

Claim 16 recites that the layers form a laminate as disclosed at paragraph [0029], lines 1-3.

Claim 17 recites that a print is printed on at least one of the layers before they are laminated as disclosed at paragraph [0030], lines 1-4.

Claim 18 recites that one of the layers is a laminate as disclosed at paragraph [0031].

Claim 19 recites that the closed end is formed by connecting lower end sections of the wall as disclosed in paragraph [0032] of Appellant's specification.

Claim 20 recites that the lower end sections of the wall are pressed to one another before they are connected as disclosed at paragraph [0034].

Claim 22 recites that the container comprises a cup having one of circular, approximately quadrangular, square, oval, bean-shaped and approximately polygonal cross-sections as disclosed at paragraph [0036] of Appellant's specification.

Claim 23 recites that the print has a three-dimensional effect as disclosed at paragraph [0075], lines 13-14.

Claim 24 recites that the print comprises a hologram as disclosed at paragraph [0075], lines 16-17.

Claim 25 recites that the print leaves open a control window on the wall as disclosed at paragraph [0038], lines 1-5.

Claim 26 recites that the print is only visible after at least a part of the food is removed as disclosed at paragraph [0075], lines 17-19.

Claim 27 recites that the opening edge is bent at an angle of 90° or more relative to the rest of the wall as disclosed at paragraph [0040], lines 4-7.

Claim 30 recites that the container is capable of being stacked and unstacked as disclosed at paragraph [0046] of Appellant's specification.

Claim 31 recites that an outer one of the layers of material is formed from polypropylene (PP), oriented PP (coextruded or lacquered), polyethylene (PE), polyethylene terephthalate (PET), lacquered PET, polyamide (PA), or lacquered and oriented PA and an inner one of the layers is formed from PP, polyvinyl chloride (PVC), polystyrene (PS), PA, or PET as disclosed at paragraph [0047] of Appellant's specification.

Claims 32 and 35 both recite the container further comprising an insulating section of air within one of the layers or between the layers to provide an insulating effect as disclosed at paragraph [0048], lines 6-8.

Claim 33 recites a blank for the manufacture of a collapsible container as disclosed at paragraph [0006], lines 1-3.

Independent Claim 34 includes features discussed above and also recites a lid for closing the withdrawal opening at the open end of the container and a lid handle projecting outwardly from an edge of the lid and outwardly beyond the vent opening edge of the container as disclosed at paragraph [0060] of Appellant's specification. Claim 34 further recites that the transparency of the container enables the filling thereof to be monitored from a direction perpendicular to the filling direction and enables optical identification of food stored therein as disclosed at paragraph [0008], lines 11-15. Finally, Claim 34 recites that the container is dimensionally stable so that the container returns to essentially its original shape when the force is removed whereby the food is retracted back into the interior of the container as disclosed at paragraph [0012], lines 10-19.

(vi) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

In the final rejection dated May 25, 2006, Appellant's November 3, 2005 amendment was objected to as introducing new matter into Figure 4. Appellant subsequently filed a Response on June 13, 2006 including a different amended Figure 4. In the Advisory Action, the Examiner indicated the amendment would be entered and did not mention the drawing figures. Thus, Appellant's believe Figure 4 has been approved.

The rejections presented for review are as follows:

1) Claims 1, 2, 4-10, 12-20, 22-27, 30, 31, 33 and 34 stand rejected as being unpatentable over JP 56-156777 (JP '777) in view of McLaughlin (U.S. Pat. No. 6 210 776) and Summons (U.S. Pat. No. 4 863 014).

2) Claim 32 stands rejected as being unpatentable over JP '777 in view of McLaughlin and Summons as applied to Claim 1, and further in view of Halligan (U.S. Pat. No. 4 574 987).

3) Claim 34 stands rejected as being unpatentable over JP '777 in view of McLaughlin, Summons and Beall (U.S. Pat. No. 4 324 338).

4) Claim 35 stands rejected as being unpatentable over JP '777 in view of McLaughlin, Summons and Beal as applied to Claim 34, and further in view of Halligan.

Claims 1, 2, 5, 6, 25, 26, 30, 32, 34 and 35 are each separately patentable.

Dependent Claims 3, 4, 7-10, 12-20, 22-24, 27, 31 and 33 stand or fall with Claim 1.

(vii) APPLIED PRIOR ART

JP '777 discloses a collapsible container for receiving food as discussed in paragraph [0004] of Appellant's specification. The JP '777 container can consist of a laminate of stiff paper with polyethylene applied to both sides thereon. The collapsible container is opaque and one cannot identify at least optically whether any material is present within the container, much less what food material is inside.

McLaughlin discloses a tube container that can include a non-metallized holographic decoration. In McLaughlin, laminate 10 includes outer layer 12, holographic film layer 14, first inner barrier 16 and second inner barrier 22. The outer layer 12 must be transparent to enable viewing of the holographic film layer 14 therethrough. The laminate 10 forms a tube body 32 that is secured to a tube shoulder 34, which includes an externally threaded exit nozzle. There is no disclosure or suggestion that the layers 14, 16 and 22 can be transparent. The holographic effect is formed on the surface of the film layer 14 which itself is not transparent.

The tube body 32 of McLaughlin is attached to a dimensionally stable tube shoulder 34 which includes an externally threaded exit nozzle 36.

The main embodiment of McLaughlin is directed to a toothpaste type or hair dressing type container, which generally does not return to its original position after being squeezed to remove a portion of the stored material. Thus, McLaughlin does not disclose a dimensionally stable container.

Summons discloses a transparent building industry product with a collapsible tube. The collapsible container houses a caulking compound. Transparent sidewall portions 50, 52 which face one another, enable or provide a window completely through the container for viewing of the caulking compound so that a consumer can consider how the caulking compound will appear on a substrate upon which it is intended to be placed. The collapsible tube of Summons, however, is not dimensionally

stable, but instead when collapsed, will remain in a collapsed position.

CLAIM 1

Claim 1 recites a collapsible container having a flexible wall comprising "at least two transparent layers", "a withdrawal opening with a bent opening edge", and the container being rolled from a 2-dimensional blank. Claim 1 further recites that the container "is dimensionally stable after the shaping".

There is no motivation to combine McLaughlin with JP '777 to obtain Appellant's invention. JP '777 is directed to a collapsible container that presumably has dimensional stability and presumably will return to its original shape. The tube package of McLaughlin, however, deforms and tends to remain in the new shape. Further, the tube package of McLaughlin does not have a withdrawal opening with a bent edge, but is instead resealable by a threaded cap. JP '777 has a removable top that does not appear to be recloseable. Therefore, in view of the different physical properties of JP '777 and McLaughlin, there is no motivation to combine the references, except for the purpose of obtaining Appellant's claimed invention.

Page 3, paragraph 4, line 12 of the Final Office Action states that JP '777 and McLaughlin do not teach at least two transparent layers. Appellant agrees. There is no motivation, absent Appellant's specification, to further combine Summons with JP '777 and McLaughlin to obtain Appellant's invention. As discussed above, JP '777 is directed to a collapsible container that presumably has dimensional stability and presumably will return to its original shape. The container of Summons deforms and remains in a new shape as illustrated therein. Further, Summons is directed to a caulking compound tube package, which has a different use and structure, as the tube package has a mating end cap 22 to permit the resealing of the container after use.

JP '777 instead, has a removable top that does not appear to be reclosable. Therefore, in view of the different uses and physical properties of JP '777 and Summons, there is no motivation to combine the references to obtain Appellant's claimed invention.

Moreover, Summons modifies the layers of the container structure of JP '777, which have already been modified to include the holographic decoration of McLaughlin. There is no motivation to first modify the layers of the container of JP '777 with the holographic decoration of McLaughlin, much less to then further modify the layers to have at least two transparent layers as disclosed by Summons.

CLAIM 2

Appellant's Claim 2 recites that "the transparency of said container enables filling thereof to be monitored". JP '777 has no transparency. McLaughlin has a holographic decoration, but there is no disclosure of transparency through the entirety thereof to monitor filling. Finally, Summons does disclose side walls that are transparent. Due to the shape and small opening of the container of Summons and the disclosed uses thereof, Appellant believes filling of the Summons container likely would be done automatically without utilizing the transparent walls to monitor the filling thereof.

CLAIM 5

Appellant's Claim 5 recites that "three of said layers are provided, each of which is transparent" for the collapsible container. JP '777 discloses an opaque container. McLaughlin does not teach two transparent layers, much less three transparent layers. As discussed above, there is no motivation to make two layers of JP '777, as modified by McLaughlin transparent, much less make three layers transparent.

CLAIM 6

Appellant's Claim 6 recites that "a central one of said layers is an elastic yet permanently ductile layer, and after the shaping, a dimensionally stable layer". JP '777 discloses a collapsible container that is dimensionally stable, but opaque. While Summons discloses an elastic central layer, the layer clearly is not dimensionally stable. Thus substituting the transparent layers of Summons for the combined layers of '777 and McLaughlin, which Appellant disagrees with, would result in a container that is transparent but not dimensionally stable.

CLAIM 25

Appellant's Claim 25 recites that "the print leaves open a control window on the wall". McLaughlin discloses a hologram, which can be formed on the surface of a polyester film with printing and embossing. Column 3, lines 61-63 of McLaughlin, however, discloses that the holographic film layer will provide a background decoration. Thus, as best understood, the print/hologram of McLaughlin does not permit viewing therethrough. Moreover, as discussed above there is no motivation to combine Summons with the container of JP '777 and McLaughlin.

CLAIM 26

Appellant's Claim 26 recites that "the print is only visible after at least a part of the food is removed". The Office Action indicates that this feature would be an optimization of a result effective variable that involves only routine skill in the art. Appellant traverses this statement. As set forth at Appellant's paragraph [0039], it is possible for the print to become visible only after food has been taken out. This occurs when the print is of a corresponding color as a food contained in the container. Thus a predetermined structure/color is inherently necessary to provide this claimed function. There is no disclosure or suggestion in the

applied prior art of a hologram or other printing that has the same color as the food stored in the container in order to provide this effect.

Further, the claimed feature is an indication of the absence of contents in the container. Thus, this feature is not merely an optimization of a result effective variable as the feature provides a yes/no indication.

CLAIM 30

Appellant's Claim 30 recites that "the container is capable of being stacked and unstacked". JP '777 appears to be capable of being stacked and unstacked. When modified with the layers and arrangements of McLaughlin and Summons to be transparent, Appellant believes the resulting containers would not be dimensionally stable and thus not capable of being both stacked and unstacked.

CLAIM 32

Claim 32 is believed allowable for the reasons set forth above with respect to Claim 1.

Halligan discloses combining inner and outer pre-formed cone-shaped members. The members are nested and bonded together at less than 20% of their adjacent surface areas to provide unbonded areas therebetween that function as an insulative heat barrier. One cone-shaped member is made of plastic and another member is made of paper.

There is no motivation to further modify the paper with polyethylene applied on both sides thereof as disclosed in JP '777 and as modified by McLaughlin and as made transparent by Summons, which Appellant disagrees with, to have first and second cone shaped members that nest as disclosed in Halligan. Moreover, even if Halligan were properly combined with JP '777, McLaughlin and Summons, which Appellant disagrees with, to provide a container with separate elements joined together to provide an insulating effect, the resulting container would lack transparency.

CLAIM 34

Appellant's independent Claim 34 recites a collapsible "conical-shaped transparent container" for receiving food that includes "a first liquid impermeable transparent inner layer", "a second elastic and dimensionally stable transparent central layer" and "a third gas impermeable transparent outer layer".

As discussed above, the applied prior art does not teach first, second and third transparent layers, much less the specific combinations of materials for the claimed layers.

Further, the applied prior art does not disclose the "second elastic and dimensionally stable transparent central layer". As discussed above, the tube of McLaughlin is squeezable and thus not dimensionally stable. The dimensionally stable layer of JP '777 is only disclosed as being opaque and Summons does not disclose any dimensionally stable layer.

Claim 34 further recites "a print" preventing viewing through the container "except for a control window on a section of said container". This feature is not believe present in the applied prior art as McLaughlin discloses a holographic background, which does not necessarily correspond to a transparent tube body.

The rejection of Claim 34 further relies on Beall, which discloses a lid on a container that has a tab 46 projecting beyond a top edge thereof. The compartmented container of Beall is utilized for administering the sacramental elements during a communion service and is constructed of a durable material that may also be an impact-resistant glass to be able to withstand moderate impact during usage. The container is designed to hold both bread and wine or other substances. There is no disclosure or suggestion that the compartmented container may be in anyway collapsible. Instead, the container appears to require a solid structure so that the hinged closure member 16 seats properly and strongly in the lowered portion of the side wall member.

There is no motivation, absent Appellant's specification, to consider the compartmented container of Beall which is not disclosed as being collapsible or even flexible, in order to obtain a lid for the collapsible container of JP '777. Instead, hindsight was required to add the lid of Beall to the combination of JP '777, McLaughlin and Summons.

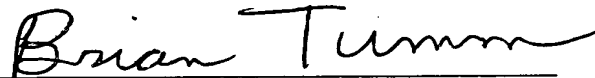
Further, as discussed above with respect to Claim 1, there is no motivation to combine McLaughlin and Summons with JP '777, much less with Beall.

CLAIM 35

Claim 35 is believed allowable for the reasons set forth above with respect to Claim 34.

Moreover, Claim 35 recites "an insulating section of air with one of said layers or between two of said layers to provide an insulating affect". As discussed above with respect to Claim 32, substituting the separate elements of Halligan to provide an insulating effect would include at least one opaque paper layer. Thus, a transparent container would not result. This factor, in combination with JP '777 already being an opaque container, leads to the conclusion that the applied prior art may not be combined properly to result in the claimed container.

Respectfully submitted,



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Encl: Appendices
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(viii) CLAIMS APPENDIX - LISTING OF CLAIMS

1. (Previously presented) Collapsible container for receiving food, having a flexible wall comprising at least two transparent layers, the container comprising a withdrawal opening with a bent opening edge and being closed at its end opposite the withdrawal opening, the container being rolled from a two-dimensional blank which is connected with itself in an overlap region extending in the longitudinal direction of the container by at least one of heat and pressure, wherein the container is formed from a transparent and fluid tight material which can be shaped for bending the opening edge and is dimensionally stable after the shaping, and wherein the container and the material are stable at least within the temperature range of -50°C to +120°C.

2. (Previously presented) Collapsible container according to claim 1, wherein the unshaped blank is two-dimensional to be processed more easily, and wherein the transparency of said container enables filling thereof to be monitored.

3. (Cancelled)

4. (Previously presented) Collapsible container according to claim 1, wherein two or more of the layers are joined in a permanent perfect junction.

5. (Previously presented) Collapsible container according to claim 1, wherein three of said layers are provided, each of which is transparent.

6. (Previously presented) Collapsible container according to claim 1, wherein a central one of said layers is an elastic yet permanently ductile layer, and after the shaping, a dimensionally stable layer.

7. (Previously presented) Collapsible container according to claim 1, wherein at least an inner one of said layers is liquid tight and a further one of said layers is gastight.

8. (Previously presented) Collapsible container according to claim 1, wherein at least one of an outer and an inner one of said layers is formed as a connection layer at least in the overlap region.

9. (Original) Collapsible container according to claim 1, wherein edges of the layers are fluid tight.

10. (Original) Collapsible container according to claim 1, wherein at least one of the layers is provided with a print.

11. (Cancelled)

12. (Previously presented) Collapsible container according to claim 1, wherein said layers comprise a central layer made of polyester and outer and inner layers that comprise coats of lacquer applied to the central layer.

13. (Previously presented) Collapsible container according to claim 1, wherein the layers comprise an outer layer of polypropylene, an inner layer of polypropylene, and a central layer of polyester arranged therebetween.

14. (Previously presented) Collapsible container according to claim 1, wherein the layers comprise an outer layer, an inner layer and a central layer therebetween, and wherein a print is provided on at least one of an inner side of the outer layer, an outer side or an inner side of the central layer, and an outer side of the inner layer.

15. (Original) Collapsible container according to claim 1, wherein for the generation of heat for the connection in the overlap region, at least one of the layers is ultrasonic absorbent.

16. (Original) Collapsible container according to claim 1, wherein the layers form a laminate.

17. (Previously presented) Collapsible container according to claim 1, wherein a print is printed on at least one of the layers before the layers are laminated.

18. (Original) Collapsible container according to claim 1, wherein one of the layers is a laminate.

19. (Original) Collapsible container according to claim 1, wherein the closed end is formed by connecting lower end sections of the wall.

20. (Previously presented) Collapsible container according to claim 19, wherein the lower end sections of the wall are pressed one to another before they are connected.

21. (Cancelled)

22. (Previously presented) Collapsible container according to claim 1, wherein the container comprises a cup having one of circular, approximately quadrangular, square, oval, bean-shaped and approximately polygonal cross-sections.

23. (Previously presented) Collapsible container according to claim 14, wherein the print has a three-dimensional effect.

24. (Previously presented) Collapsible container according to claim 14, wherein the print comprises a hologram.

25. (Previously presented) Collapsible container according to claim 10, wherein the print leaves open a control window on the wall.

26. (Previously presented) Collapsible container according to claim 10, wherein the print is only visible after at least a part of the food is removed.

27. (Original) Collapsible container according to claim 1, wherein the opening edge is bent at an angle of 90° or more relative to the rest of the wall.

28-29. (Cancelled)

30. (Previously presented) Collapsible container according to claim 1, wherein the container is capable of being stacked and unstacked.

31. (Previously presented) Collapsible container according to claim 1, wherein an outer one of said layers of the material is formed from polypropylene (PP), oriented PP (coextruded or lacquered), polyethylene (PE), polyethylene terephthalate (PET), lacquered PET, polyamide (PA), or lacquered and oriented PA and an inner one of said layers is formed from PP, polyvinyl chloride (PVC), polystyrene (PS), PA, or PET.

32. (Previously presented) Collapsible container according to claim 1, further comprising an insulating section of air within one of said layers or between said layers to provide an insulating effect.

33. (Original) Blank for the manufacture of a collapsible container according to claim 1.

34. (Currently amended) A collapsible conical-shaped transparent container for receiving food is made from a blank that is connected to itself in an overlap region by at least one of heat and pressure extending in a longitudinal direction of the container, the container having a withdrawal opening with a bent opening edge at an open end and being closed at an opposing end, the container comprising:

- a first liquid impermeable transparent inner layer comprising polypropylene, polyvinyl chloride, polystyrene, polyamide, polyethylene terephthalate, or laminate;

- a second elastic and dimensionally stable transparent central layer;

- a third gas impermeable transparent outer layer comprising polypropylene, oriented polypropylene, polyethylene, polyethylene terephthalate, lacquered polyethylene terephthalate, polyamide or lacquered and oriented polyamide;

- a print provided with one of said layers, said print preventing viewing through said container except for a control window on a section of said container; and

- a lid for closing the withdrawal opening at the open end of the container and a lid handle projecting outwardly from an edge of said lid and outwardly beyond the bent opening edge of said container to enable removal of said lid and access to the interior of said container;

- wherein at least one of the inner layer and the outer layer is formed as a connection layer at least in the overlap region,

- wherein the closed end is formed by connecting lower sections of the blank,

- wherein the container has a circular cross-section,

wherein the container is capable of being stacked and unstacked with a plurality of similar containers,

wherein the transparency of said container enables filling thereof to be monitored from a direction perpendicular to the filling direction and enables optical identification of the food stored therein, and

wherein the container is dimensionally stable after having been shaped so that said container is deformable when a force is applied to the outer layer thereof to enable consumption of at least part of the food and so that said container returns to essentially its original shape when the force is removed whereby the food is retracted back into an interior of the container until another force is applied to the outer layer.

35. (Currently amended) The collapsible conical-shaped transparent container of Claim 34, further comprising an insulating section of air within one of said layers or between two of said layers to provide an insulating effect.

36-37. (Cancelled)

(ix) EVIDENCE APPENDIX

Not applicable.

(x) RELATED PROCEEDINGS APPENDIX

Not applicable.